

**COUNTY COUNCIL
OF
HARFORD COUNTY, MARYLAND**

Bill No. 09-19 As Amended

Introduced by: Council Member McMahan and Council President Boniface at the request of the County Executive

Legislative Day No. 09-13 Date: May 5, 2009

AN ACT to add the definitions of "meterological tower (met tower)", "small wind energy system", "wind energy system owner", "wind generator" and "wind tower" to Section 267-4, Definitions, of Article I, General Provisions, and to add new Subsection C(9), Small wind energy systems, to Section 267-27, Accessory Uses and Structures, of Article V, Supplementary Regulations, all of Part 1, Standards, of Chapter 267, Zoning, as enacted by the County Council on October 21, 2008 in Bill No. 08-44, as amended; to provide for the addition of definitions relating to wind energy systems; to add provisions allowing wind energy systems as an accessory use in all zoning districts; and generally relating to wind energy systems.

By the Council, May 5, 2009

Introduced, read first time, ordered posted and public hearing scheduled

on: June 2, 2009

at: 6:30 p.m.

By order: Barbara J. O'Connor, Council Administrator

PUBLIC HEARING

Having been posted and notice of time and place of hearing and title of Bill having been published according to the Charter, a public hearing was held on June 2, 2009 and concluded on June 2, 2009.

Barbara J. O'Connor, Council Administrator

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [BRACKETS] indicate matter Deleted from existing law. Underlining indicates Language added to bill by amendment. Language Lined through indicates matter stricken out of Bill By amendment.

Section 1. Be It Enacted By The County Council of Harford County, Maryland that the definitions of "meterological tower (met tower)", "small wind energy system", "wind energy system owner", "wind generator" and "wind tower" be, and they are hereby, added to Section 267-4, Definitions, of Article I, General Provisions, and that new Subsection C(9), Small wind energy systems, be, and it is hereby, added to Section 267-27, Accessory Uses and Structures, of Article V, Supplementary Regulations, all of Part 1, Standards, of Chapter 267, Zoning, as enacted by the County Council on October 21, 2008 in Bill No. 08-44, as amended, all to read as follows:

Chapter 267. ZONING

Part 1. Standards

ARTICLE I. General Provisions

§ 267-4. Definitions.

METEROLOGICAL TOWER (MET TOWER) – INCLUDES THE TOWER; BASE PLATE; ANCHORS; GUY WIRES AND HARDWARE; ANEMOMETERS (WIND SPEED INDICATORS); WIND DIRECTION VANES; BOOMS TO HOLD EQUIPMENT, ANEMOMETERS AND VANES; DATA LOGGER; INSTRUMENT WIRING AND ANY TELEMETRY DEVICES THAT ARE USED TO MONITOR OR TRANSMIT WIND SPEED AND WIND FLOW CHARACTERISTICS OVER A PERIOD OF TIME FOR EITHER INSTANTANEOUS WIND INFORMATION OR TO CHARACTERIZE THE WIND RESOURCE AT A GIVEN LOCATION.

SMALL WIND ENERGY SYSTEM – EQUIPMENT, INCLUDING ANY BASE, BLADE, FOUNDATION, GENERATOR, NACELLE, ROTOR, TOWER, TRANSFORMER, VANE, WIRE, INVERTER, BATTERIES, GUY WIRE OR OTHER COMPONENT USED IN THE SYSTEM, THAT CONVERTS AND THEN STORES OR TRANSFERS ENERGY FROM THE WIND INTO USABLE FORMS OF ENERGY AND THAT:

A. IS USED TO GENERATE ELECTRICITY;

B. HAS A RATED NAMEPLATE CAPACITY OF ~~BETWEEN 2.5 AND 50~~
KILOWATTS OR LESS; AND

C. HAS A TOTAL HEIGHT OF 150 FEET OR LESS.

WIND ENERGY SYSTEM OWNER – THE PERSON THAT OWNS, OR INTENDS TO OWN,
THE PROPERTY UPON WHICH A SMALL WIND ENERGY SYSTEM WILL BE
OPERATED IN ACCORDANCE WITH §267-27C(9) OF THE HARFORD COUNTY
CODE, AS AMENDED.

WIND GENERATOR – BLADES AND ASSOCIATED MECHANICAL AND ELECTRICAL
CONVERSION COMPONENTS MOUNTED ON TOP OF THE WIND TOWER.

WIND TOWER – THE MONOPOLE, FREESTANDING OR GUYED STRUCTURE THAT
SUPPORTS A WIND GENERATOR.

§ 267-27. Accessory uses and structures.

C. Use limitations. In addition to the other requirements of this Part 1, an accessory use or
structure shall not be permitted unless it strictly complies with the following:

(9) SMALL WIND ENERGY SYSTEMS. IN ORDER TO PROPERLY INTEGRATE
ALL REGULATING PROVISIONS AFFECTING SMALL WIND ENERGY
SYSTEMS, AS DEFINED IN §267-4, AND TO REGULATE SUCH SYSTEMS IN
AN ORDERLY AND COMPREHENSIVE MANNER, IT IS HEREBY PROVIDED
THAT SMALL WIND ENERGY SYSTEMS ARE SUBJECT TO THE
REGULATIONS AS SET FORTH HEREIN. THE PURPOSE OF THIS
SUBSECTION IS TO OVERSEE THE PERMITTING OF SMALL WIND ENERGY
SYSTEMS AND TO PRESERVE AND PROTECT PUBLIC HEALTH AND

1 SAFETY WITHOUT SIGNIFICANTLY INCREASING THE COST OR
2 DECREASING THE EFFICIENCY OF A SMALL WIND ENERGY SYSTEM.
3 THESE PROVISIONS SHALL APPLY TO ALL SMALL WIND ENERGY
4 SYSTEMS LOCATED IN HARFORD COUNTY.

5 (A) STANDARDS. A SMALL WIND ENERGY SYSTEM SHALL BE AN
6 ACCESSORY USE IN ALL ZONING DISTRICTS SUBJECT TO THE
7 FOLLOWING REQUIREMENTS:

8 [1] SETBACKS. A WIND TOWER FOR A SMALL WIND ENERGY
9 SYSTEM SHALL BE SET BACK A DISTANCE EQUAL TO ITS
10 TOTAL HEIGHT PLUS AN ADDITIONAL 40 FEET FROM:

11 [A] ANY STATE OR COUNTY RIGHT-OF-WAY OR THE
12 NEAREST EDGE OF A STATE OR COUNTY ROADWAY,
13 WHICHEVER IS CLOSER;

14 [B] ANY DULY RECORDED RIGHT-OF-WAY, UTILITY OR
15 STORMWATER MANAGEMENT EASEMENT;

16 [C] ANY OVERHEAD UTILITY LINES;

17 [D] ALL PROPERTY LINES; AND

18 [E] ANY EXISTING GUY WIRE, ANCHOR OR SMALL WIND
19 ENERGY TOWER ON THE PROPERTY.

20 [2] ACCESS.

21 [A] ALL GROUND MOUNTED ELECTRICAL AND CONTROL
22 EQUIPMENT SHALL BE LABELED AND SECURED TO
23 PREVENT UNAUTHORIZED ACCESS.

1 [B] THE WIND TOWER SHALL BE DESIGNED AND
2 INSTALLED SO AS TO NOT PROVIDE STEP BOLTS OR
3 A LADDER READILY ACCESSIBLE TO THE PUBLIC
4 FOR A MINIMUM HEIGHT OF 8 FEET ABOVE THE
5 GROUND.

6 [3] ELECTRICAL WIRES. ALL ELECTRICAL WIRES ASSOCIATED
7 WITH A SMALL WIND ENERGY SYSTEM, OTHER THAN
8 WIRES NECESSARY TO CONNECT THE WIND GENERATOR
9 TO THE WIND TOWER WIRING, THE WIND TOWER WIRING
10 TO THE DISCONNECT JUNCTION BOX AND THE GROUNDING
11 WIRES SHALL BE LOCATED UNDERGROUND.

12 [4] LIGHTING. A WIND TOWER AND GENERATOR SHALL NOT
13 BE ARTIFICIALLY LIGHTED UNLESS SUCH LIGHTING IS
14 REQUIRED BY THE FEDERAL AVIATION ADMINISTRATION
15 (FAA). LIGHTING OF OTHER PARTS OF THE SMALL WIND
16 ENERGY SYSTEMS, SUCH AS APPURTENANT STRUCTURES,
17 SHALL BE LIMITED TO THAT REQUIRED FOR SAFETY
18 PURPOSES AND SHALL BE REASONABLY SHIELDED FROM
19 ABUTTING PROPERTIES.

20 [5] APPEARANCE, COLOR AND FINISH. THE WIND GENERATOR
21 AND WIND TOWER SHALL REMAIN PAINTED OR FINISHED
22 THE COLOR GREY.

1 [6] SIGNS. THE ONLY SIGNAGE PERMITTED ON ANY SMALL
2 WIND ENERGY SYSTEM SHALL BE A SINGLE SIGN NO
3 LARGER THAN 6 SQUARE FEET AFFIXED TO THE
4 EQUIPMENT BUILDING OR FENCE ENCLOSURE THAT
5 STATES "DANGER – HIGH VOLTAGE – KEEP OFF" AND
6 IDENTIFIES THE SYSTEM OWNER AND THE TELEPHONE
7 NUMBER FOR THE PERSON TO CONTACT IN THE EVENT OF
8 AN EMERGENCY.

9 [7] CODE COMPLIANCE. A SMALL WIND ENERGY SYSTEM,
10 INCLUDING WIND TOWER, SHALL COMPLY WITH ALL
11 APPLICABLE CONSTRUCTION AND ELECTRICAL CODES.

12 [8] SMALL WIND ENERGY SYSTEMS SHALL NOT BE ATTACHED
13 TO ANY BUILDING, INCLUDING GUY WIRES.

14 [9] MET TOWERS SHALL BE PERMITTED UNDER THE SAME
15 STANDARDS, PERMIT REQUIREMENTS, RESTORATION
16 REQUIREMENTS AND PERMIT PROCEDURES AS A SMALL
17 WIND ENERGY SYSTEM.

18 [10] TOTAL HEIGHT SHALL BE THE VERTICAL DISTANCE FROM
19 GROUND LEVEL TO THE TIP OF A WIND GENERATOR BLADE
20 WHEN THE TIP IS AT ITS HIGHEST POINT.

21 (B) ABANDONMENT.

22 [1] EVERY 2 YEARS THE OWNER OF A SMALL WIND ENERGY
23 SYSTEM SHALL SUBMIT A LETTER TO THE DEPARTMENT

1 STATING THAT THE SYSTEM IS IN CONTINUOUS USE; AND
2 AT LEAST 60 CALENDAR DAYS BEFORE THE LETTER IS DUE,
3 THE DEPARTMENT SHALL NOTIFY THE OWNER OF THE
4 DATE BY WHICH THE LETTER IS DUE.

5 [2] A SMALL WIND ENERGY SYSTEM THAT IS OUT-OF-SERVICE
6 FOR A CONTINUOUS 12-MONTH PERIOD WILL BE DEEMED
7 TO HAVE BEEN ABANDONED. THE DIRECTOR MAY ISSUE A
8 NOTICE OF ABANDONMENT TO THE OWNER OF A SMALL
9 WIND ENERGY SYSTEM THAT IS DEEMED TO HAVE BEEN
10 ABANDONED. THE OWNER SHALL HAVE THE RIGHT TO
11 RESPOND IN WRITING TO THE NOTICE OF ABANDONMENT
12 SETTING FORTH THE REASONS FOR OPERATIONAL
13 DIFFICULTY AND PROVIDING A REASONABLE TIMETABLE
14 FOR CORRECTIVE ACTION, WITHIN 30 DAYS FROM THE
15 DATE OF NOTICE. THE DIRECTOR SHALL WITHDRAW THE
16 NOTICE OF ABANDONMENT AND NOTIFY THE OWNER
17 THAT THE NOTICE HAS BEEN WITHDRAWN IF THE OWNER
18 PROVIDES INFORMATION THAT DEMONSTRATES THE WIND
19 ENERGY SYSTEM HAS NOT BEEN ABANDONED.

20 [3] IF THE SMALL WIND ENERGY SYSTEM IS DETERMINED TO
21 BE ABANDONED, THE OWNER OF A SMALL WIND ENERGY
22 SYSTEM SHALL REMOVE THE SYSTEM AT THE OWNER'S
23 SOLE EXPENSE WITHIN 3 MONTHS OF THE DATE OF NOTICE

1 OF ABANDONMENT. IF THE OWNER FAILS TO REMOVE THE
2 SYSTEM, THE DIRECTOR MAY PURSUE A LEGAL ACTION TO
3 HAVE THE SYSTEM REMOVED AT THE OWNER'S EXPENSE.

4 [4] THE OWNER SHALL ENSURE REMOVAL OF THE SYSTEM BY
5 POSTING AN ACCEPTABLE MONETARY GUARANTEE WITH
6 THE COUNTY ON FORMS PROVIDED BY THE OFFICE OF THE
7 DIRECTOR. THE GUARANTEE SHALL BE SUBMITTED PRIOR
8 TO THE ISSUANCE OF A BUILDING PERMIT AND SHALL BE
9 FOR AN AMOUNT EQUAL TO A COST ESTIMATE APPROVED
10 BY THE DIRECTOR FOR THE REMOVAL OF THE SYSTEM,
11 PLUS A 15% CONTINGENCY.

12 (C) PUBLIC SERVICE COMMISSION. IN ACCORDANCE WITH THE
13 MARYLAND ANNOTATED CODE, PUBLIC UTILITIES COMPANIES,
14 §7-207.1, ANY PROPERTY OWNER SEEKING TO CONSTRUCT A
15 SMALL WIND ENERGY SYSTEM SHALL APPLY TO THE PUBLIC
16 SERVICE COMMISSION (PSC) FOR APPROVAL AND PROVIDE
17 DOCUMENTATION OF SUCH APPROVAL TO THE COUNTY PRIOR TO
18 CONSTRUCTION AND BEING ISSUED A BUILDING PERMIT, IF
19 APPLICABLE.

20 (D) VARIANCES. VARIANCES TO THE SETBACK REQUIREMENTS IN
21 THIS SUBSECTION ARE NOT PERMITTED.

22 (E) NOISE. ALL SMALL WIND ENERGY SYSTEMS SHALL COMPLY
23 WITH THE STATE-REGULATED NOISE ORDINANCE.

(F) ANEMOMETERS. IF 8 POUNDS OR LESS, THE ANEMOMETERS ARE EXEMPT FROM THE PROVISIONS OF THIS SUBSECTION C(9).

(G) MAXIMUM NUMBER. ONE SMALL WIND ENERGY SYSTEM SHALL BE ALLOWED ON EACH PARCEL UP TO 20 ACRES; AN ADDITIONAL SYSTEM SHALL BE ALLOWED ON EVERY 20 ACRES THEREAFTER UP TO A MAXIMUM OF 5 SMALL WIND ENERGY SYSTEMS PER PARCEL.

(H) RATED NAMEPLATE CAPACITY. A SMALL WIND ENERGY SYSTEM THAT HAS A RATED NAMEPLATE CAPACITY OF ~~LESS THAN~~ 2.5 KILOWATTS OR LESS SHALL COMPLY ONLY WITH SUBSECTIONS (9)(A)[1], (9)(B)[1], (9)(B)[2] AND (9)(B)[3].

Section 2. And Be It Further Enacted that this Act shall take effect 60 calendar days from the date it becomes law.

EFFECTIVE: August 17, 2009

The Council Administrator does hereby certify that fifteen (15) copies of this Bill are immediately available for distribution to the public and the press.

Council Administrator

BILL NO. 09-19
As Amended

HARFORD COUNTY BILL NO. 09-19 As Amended

Brief Title Definitions-Wind Energy Systems

is herewith submitted to the County Council of Harford County for enrollment as being the text as finally passed.

CERTIFIED TRUE AND CORRECT

Barbara J. O'Connor
Council Administrator

Date June 2, 2009

ENROLLED

Bill Bonner
Council President

Date June 2, 2009

BY THE COUNCIL

Read the third time.

Passed: LSD 09-19

Failed of Passage: _____

By Order

Barbara J. O'Connor
Council Administrator

Sealed with the County Seal and presented to the County Executive for approval this 3rd day of June, 2009 at 3:00 p.m.

Barbara J. O'Connor
Council Administrator



BY THE EXECUTIVE

David R. Craig
COUNTY EXECUTIVE

APPROVED: Date June 17, 2009

BY THE COUNCIL

This Bill No. 09-19 As Amended having been approved by the Executive and returned to the Council, becomes law on June 17, 2009.

EFFECTIVE DATE: August 17, 2009

Barbara J. O'Connor / MKH
Barbara J. O'Connor,
Council Administrator

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